

**MICHAEL A. KAKUK**

Office of the Commissioner of Securities and Insurance,  
Montana State Auditor

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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,  
MONTANA STATE AUDITOR**

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IN THE MATTER OF:

)  
) CASE NO. INS-2013-46  
)

ELIZABETH STORY, IN HER  
CAPACITY AS INSURANCE  
PRODUCER LICENSE #19919; AND  
HOMETOWN INSURANCE AGENCY,  
INC., LICENSE #701461.

)  
) **CONSENT AGREEMENT AND**  
) **FINAL ORDER**  
)  
)  
)

Respondents.

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This Consent Agreement and Final Order (Agreement) is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and Elizabeth Story and Hometown Insurance Agency, Inc. (Respondents).

**RECITALS**

WHEREAS, the CSI alleges that Respondents did not conduct a diligent search of authorized insurers before renewing three clients' surplus lines insurance in 2012, as required by § 33-2-302(2)(a)(ii)(A);

WHEREAS, the CSI alleges that Respondents did not provide proper notice to three clients of premium due as required by § 33-15-1105;

WHEREAS, the CSI alleges that for a period of time in 2012 Respondents deposited clients' credit card payments into an account that was not a client trust account, as required by § 33-17-1102; and

WHEREAS, the CSI and Respondents agree that the best interests of the public would be served by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondents hereby agree to settle this matter pursuant to the following terms and conditions:

### **STIPULATIONS AND CONSENTS**

- I. Respondents stipulate and consent to the following:
  - A. Respondents admit to the allegations set forth above;
  - B. Respondents shall jointly and severally pay an administrative penalty to the State of Montana in the amount of \$12,400 according to the following terms:
    - i. \$10,000 of this penalty shall be suspended for a period of one year. If the CSI determines that either or both of Respondents commit further violations of the Code within one year of execution of this Agreement, the CSI may impose this penalty, along with any additional penalty for further violations the CSI deems necessary.
    - ii. The remaining \$2,400 penalty shall be paid in installments of \$200 each month for a period of 12 months. Each payment shall be due on the 10th day of each month following the execution of this Agreement. Payments shall be to the Montana State Auditor, and sent to:

Montana State Auditor  
c/o Michael A. Kakuk  
840 Helena Avenue  
Helena, MT 59601

C. Respondents shall submit to an examination by the CSI of their operations, books, and records, sometime within the year following execution of this agreement.

Should the CSI determine that either Respondent has violated any section of the Code, the suspended penalty described above may be imposed;

D. Respondent Story will attend a one-day training of the management software used by Respondents;

E. Respondent Story will attend training on accounting and bookkeeping procedures;

F. Respondent Story shall thoroughly read, remain familiar with, and obey all laws and rules pertaining to the conduct of insurance producers in Montana;

G. Respondents fully and forever release and discharge the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the CSI, and all of the CSI's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement; and

H. Respondents specifically and affirmatively waive a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101 et seq., and elect to resolve this matter on the terms and conditions set forth herein.

II. All parties to this Agreement stipulate and consent as follows:

A. The Commissioner and the CSI have jurisdiction over the subject matter of the above-entitled matter;

B. This Agreement is entered without adjudication of any issue, law, or fact. This Agreement covers the factual allegations addressed above. It is entered into solely for the purpose of resolving the CSI's allegations and is not intended to be used for any other purpose. For any person or entity not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against Respondents, limit or create liability of Respondents, or limit or create defenses of Respondents to any claims;

C. The applicable statute of limitation, Mont. Code Ann. § 33-1-707, is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondents violate the terms of this Agreement at any time during the two-year tolling period, the CSI reserves the right to seek the additional administrative penalties and/or to seek further regulatory action, as described above;

D. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondents to enter into this Agreement;

E. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing, with the same formality as this Agreement, to be effective;

F. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein;

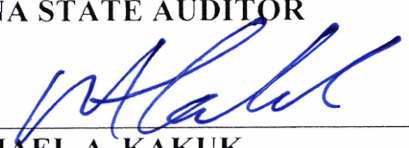
G. This Agreement shall be effective upon signing of the Final Order; and

H. The Agreement is a public record under Montana law and, as such, may not be sealed or otherwise withheld from the public.

DATED this 2<sup>nd</sup> day of June, 2014.

**OFFICE OF THE COMMISSIONER OF  
SECURITIES AND INSURANCE,  
MONTANA STATE AUDITOR**

By: \_\_\_\_\_

  
**MICHAEL A. KAKUK**  
Attorney for the CSI

DATED this 1<sup>st</sup> day of June, 2014.

  
**ELIZABETH STORY**

Elizabeth A. Story, President  
**HOMETOWN INSURANCE AGENCY,  
INC.**

**FINAL ORDER**

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101 et seq.,  
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and  
Respondents Elizabeth Story and Hometown Insurance Agency, Inc., is adopted as if set forth  
fully herein.

DATED this 2<sup>nd</sup> day of June, 2014.

**MONICA J. LINDEEN**  
Commissioner of Securities and Insurance,  
Montana State Auditor

By: \_\_\_\_\_

  
**ADAM SCHAFFER**  
Deputy State Auditor

cc: Michael A. Kakuk  
Respondents Story and Hometown Insurance